IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

WP(C).No. 26736 of 2007(G)

AGAINST THE ORDER DATED / / IN EP 95/2006 IN OS.48/2005 of SUB COURT, KASARAGOD

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PETITIONER:

K.SURENDRAN, AGED 44 YEARS,
S/O BALAKRISHNAN,
RESIDING AT VALLIVAYAL HOUSE,
UDUMA P.O., KALANAD VILLAGE,
KASARGOD TALUK, KASARGOD DISTRICT.

BY ADV. SRI.T.MADHU

RESPONDENT:

NORTH MALABAR GRAMIN BANK,
THRIKKANNAD BRANCH,
REPRESENTED BY ITS MANAGER,
P.O. BAKEL, KASARGOD DISTRICT.

BY SC SRI. DEVAN RAMACHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.26736 of 2007

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Dated this the 7th day of September, 2007.

JUDGMENT

This Writ Petition is filed seeking to stay of further proceedings pursuant to Exts.P3 and P4. North Malabar Gramin Bank, the decree holder, obtained a decree against the writ petitioner for realisation of the amount and in execution of the decree had requested the court to sell the property having an extent of 24 cents with a house therein showing the upset price as Rs.4,20,000/-. As there were no bidders at the first instance, the upset price has been reduced to Rs.4 lakhs.

2. Grievance of the writ petitioner is that the property is worth much more than that and he has filed his objection before the court and the court has not considered the same. Under the Proviso to Order 21 Rule 66 when the judgment debtor disputes the value of the property and contends that it is having a particular value, the Proviso permits the court to direct the

decree holder to show the price also in the sale proclamation. Therefore, if the objection has been filed and the amount has been shown, it was the duty of the court to show it in the sale proclamation. If it is not done, it is not in accordance with law.

3. Since I am not having official copy of the counter to verify it, I direct the court below to defer the sale posted on 10.9.2007 and if the objection contains a valuation, then direct the decree holder to incorporate that valuation and then issue fresh proclamation and proceed with the sale of the property.

Writ Petition is disposed of as above.

M.N.Krishnan,
Judge.

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